

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOHN D. CERQUEIRA,

Plaintiff,

v.

Civil Action No. 05-11652-WGY

AMERICAN AIRLINES, INC.,

Defendant.

**DECLARATION OF MICHAEL T. KIRKPATRICK**

I, Michael T. Kirkpatrick, depose and state the following:

1. I am an attorney with the Public Citizen Litigation Group (PCLG), 1600 20<sup>th</sup> Street, NW, Washington, DC 20009. I am a member in good standing of the bar of the District of Columbia and several federal courts including the Supreme Court of the United States, the United States Courts of Appeals for the District of Columbia and First Circuits, and the United States District Court for the District of Columbia.
2. I was admitted to this Court *pro hac vice* to act as counsel for plaintiff John D. Cerqueira in this case. I submit this declaration as co-counsel for Mr. Cerqueira in support of his Motion for Attorneys' Fees and Costs.
3. In early 2004, Mr. Cerqueira contacted PCLG seeking legal representation in connection with American Airlines's decision to remove him from flight 2237 on December 28, 2003, and to deny him further service. After conducting preliminary legal and factual research, I offered to represent Mr. Cerqueira on the condition that I could locate appropriate co-counsel in Boston. Thereafter, David Godkin and I agreed to work together as co-counsel to jointly represent Mr. Cerqueira. Mr.

Godkin and I have acted as co-counsel and we have shared responsibility for overall case strategy and trying the case.

4. I have over fifteen years of experience in complex federal litigation. More than half of my career has been devoted exclusively to litigating civil rights cases in federal court.

5. In 1991, I graduated *cum laude* from the American University, Washington College of Law, where I received several awards, including the Dean's Award for Professional Responsibility, Most Outstanding Clinical Student. I was admitted to the bar of the State of Texas on November 1, 1991.

6. From 1991 to 1995, I was a staff attorney with the Farm Worker Division of Texas Rural Legal Aid, Inc. (TRLA), where I represented migrant agricultural workers and other low wage laborers in employment and civil rights matters. While practicing at TRLA, I litigated over two dozen cases in federal court, including several class actions.

7. From 1995 to 2004, I served as a senior trial attorney with the Civil Rights Division of the U.S. Department of Justice. At the Civil Rights Division, I litigated employment discrimination cases against state and local government employers under Title VII of the Civil Rights Act of 1964, and I defended the constitutionality of federal affirmative action programs. I was a seven-time recipient of the Division's Special Achievement Award in recognition of sustained superior performance.

8. I was lead counsel for the United States in the first jury trial in a Title VII case brought by the Department of Justice. I was also lead counsel from initial investigation through discovery and trial of two very complex pattern-or-practice cases that used the disparate impact theory to challenge the discriminatory use of written cognitive tests in selecting public safety officers. Both cases were aggressively litigated and hinged on highly-technical expert testimony in the fields of industrial and

organizational psychology, labor economics, and statistics. In *United States v. City of Garland*, the parties filed over 500 pleadings, exchanged thousands of documents and dozens of expert reports, and deposed scores of witnesses. The case culminated in a ten-day bench trial involving 31 witnesses and over 200 exhibits. *United States v. Delaware* was similarly complex, but partial summary judgment for the United States shortened the trial to six days. Nevertheless, 23 witnesses testified and more than 100 exhibits were admitted in evidence. In both of these cases, I directed the trial team and was responsible for the case theory and litigation strategy. The experience I gained in preparing and trying these complex civil rights cases contributed to the efficiency with which this matter has been handled.

9. I joined Public Citizen Litigation Group (PCLG) in February 2004. PCLG is a public interest law firm devoted to impact litigation on a wide range of issues at all levels of the federal and state judiciaries. My practice areas at PCLG include civil rights, constitutional law, freedom of information, challenges to agency action (or inaction) under the Administrative Procedures Act, and practice before the United States Supreme Court. For example, I currently represent an association of Hurricane Katrina evacuees in a constitutional challenge to the adequacy of the notices that the Federal Emergency Management Agency used to inform the evacuees of their ineligibility for housing assistance benefits. The district court recently found that plaintiffs are likely to succeed on the merits of their due process claim and entered a preliminary injunction benefitting thousands of hurricane survivors. *See ACORN v. FEMA*, 2006 WL 3424993 (D.D.C. Nov. 29, 2006). During the last Supreme Court term, I successfully represented the petitioner in *Jones v. Flowers*, 126 S. Ct. 1708 (2006), from the initial petition through oral argument. In *Jones*, the Court ruled that due process requires the government to take further action to provide notice of an impending deprivation

of property when the government learns that its initial effort has failed. In another case argued last term, *Dolan v. U.S. Postal Service*, 546 U.S. 481 (2006), I drafted the merits briefs for petitioner. In *Dolan*, the Court agreed with petitioner's argument that the postal exception to the Federal Tort Claims Act does not bar all claims for injuries caused by the negligence of government employees engaged in the delivery of mail.

10. In addition to my work as a public interest litigator, I often serve as faculty for continuing legal education courses. For example, I have made presentations at national conferences sponsored by the NAACP Legal Defense Fund, the National Employment Lawyers Association, the American Immigration Lawyers Association, the Society for Industrial and Organizational Psychology, the National Lawyers Guild, the Migrant Legal Action Program, and Equal Justice Works (formerly the National Association for Public Interest Law).

11. I personally performed most of the legal work by PCLG on this case. From time to time, I was assisted by other PCLG staff. Specifically, I was assisted by lawyers Brian Wolfman, Allison Zieve, and Adina Rosenbaum. Descriptions of their professional backgrounds, taken from the PCLG website, are attached to this declaration as Exhibits 2, 3, and 4. I was also assisted by a summer law clerk, David Becker, and a paralegal, Philip Longo.

12. PCLG seeks fees at hourly rates based on the so-called *Laffey* matrix. The *Laffey* matrix is used by the courts in the District of Columbia to determine prevailing market rates for attorneys, paralegals, and law clerks. The current version of the *Laffey* matrix is attached to this declaration as Exhibit 5, and is available at [http://www.usdoj.gov/usao/dc/Divisions/Civil\\_Division/Laffey\\_Matrix\\_6.html](http://www.usdoj.gov/usao/dc/Divisions/Civil_Division/Laffey_Matrix_6.html). Based on current *Laffey* rates, I am entitled to a rate of \$375 per hour; Mr. Wolfman (a 1984 law graduate) is entitled to \$425 per hour; Ms. Zieve (a 1989 law

graduate) is entitled to \$375 per hour; Ms. Rosenbaum (a 2003 law graduate) is entitled to \$245 per hour, and Mr. Becker and Mr. Longo (a law clerk and paralegal, respectively) are entitled to \$120 per hour. It is my understanding that the *Laffey* rates are equal to or less than the rates charged by attorneys of comparable skill, reputation, and experience in the Boston marketplace. See Declarations of Howard Friedman, Joseph F. Savage, Jr., and Scott P. Lewis.

13. Mr. Cerqueira requests an award of attorneys' fees for 860 hours of work performed by PCLG through the time of trial.<sup>1</sup> A detailed description of the hours claimed by PCLG is attached to this declaration as Exhibit 1. All of the entries on Exhibit 1 were contemporaneously recorded and copied from the actual time records generated by the timekeeping software used by PCLG. Considerable billing judgment was used in recording the hours reflected in Exhibit 1. For example, I did not record any tasks that took less than fifteen minutes. In addition, legal research performed by a PCLG summer law clerk during 2004 has not been included. Finally, I asked my colleagues to proofread various documents before they were filed with the court, and time spent on such tasks has not been included in Exhibit 1. Thus, the hours set forth in Exhibit 1 are less than all of the hours actually spent by PCLG on this case.

14. Throughout this litigation, Mr. Godkin and I were careful not to duplicate effort and to avoid engaging in any unnecessary discovery or motions practice. This careful attention to avoiding any duplication of effort is reflected in the billing records of our respective law firms.

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<sup>1</sup>Mr. Cerqueira will file a Supplemental Motion to seek fees for work performed after trial, including work related to his fee petition, post-trial motions, and any appeal.

Signed under the pains and penalties of perjury this 26 day of January, 2007.

*/s/ Michael T. Kirkpatrick*

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Michael T. Kirkpatrick  
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**Exhibit 1**

Fee Chart, sorted by Date  
plus  
Fee Chart, summary by Lawyer

PUBLIC CITIZEN LITIGATION GROUP  
FEE CHART

Page 1

DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
3/26/2004	review e-mails from potential client, begin legal research re: case theory, potential causes of action	3	\$375	\$1,125.00	Kirkpatrick, Michael
3/29/2004	continue legal research re: potential theories and causes of action	5	\$375	\$1,875.00	Kirkpatrick, Michael
3/30/2004	continue legal research re: potential theories and causes of action	5	\$375	\$1,875.00	Kirkpatrick, Michael
3/31/2004	fact research, review documents related to DOT administrative enforcement action, draft questions and notes for client interview	4	\$375	\$1,500.00	Kirkpatrick, Michael
4/1/2004	prep for interview of client	0.5	\$375	\$187.50	Kirkpatrick, Michael
4/1/2004	telephone interview of client, discuss facts and potential for representation if co-counsel in Boston can be found	1.5	\$375	\$562.50	Kirkpatrick, Michael
4/8/2004	draft summary of facts, issues, and potential causes of action for use in explaining case to potential co-counsel	6	\$375	\$2,250.00	Kirkpatrick, Michael
4/30/2004	telephone calls to Boston area attorneys to seek co-counsel arrangement	0.75	\$375	\$281.25	Kirkpatrick, Michael
5/5/2004	telephone call with D. Godkin and B. Wolfman re: potential co-counsel arrangement	0.25	\$375	\$93.75	Kirkpatrick, Michael
5/21/2004	prep list of issues to discuss w/ cocounsel	0.25	\$375	\$93.75	Kirkpatrick, Michael
5/21/2004	teleconference with D. Godkin re: co-counsel arrangement	0.25	\$375	\$93.75	Kirkpatrick, Michael
5/21/2004	notes and e-mail after call w/ co-counsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
5/25/2004	review correspondence from D. Godkin, execute agreements, telephone conversation w/ client, draft and mail letters to D. Godkin and client re: joint representation.	1	\$375	\$375.00	Kirkpatrick, Michael
6/8/2004	teleconference w/ C. Lopez at Relman & Associates re: similar cases, issues, and strategy	0.5	\$375	\$187.50	Kirkpatrick, Michael
6/8/2004	review decision in Alshrafi v. American Airlines	0.75	\$375	\$281.25	Kirkpatrick, Michael
6/8/2004	e-mail co-counsel re: call w/ C. Lopez and proposed division of research tasks, download similar case pleadings from PACER and decisions from Westlaw meeting with V. Shabo, PCLG summer associate, re: research on causes of action	2	\$375	\$750.00	Kirkpatrick, Michael
6/17/2004	action	1	\$375	\$375.00	Kirkpatrick, Michael
7/19/2004	review research memo from V. Shabo re: theories and causes of action	1	\$375	\$375.00	Kirkpatrick, Michael
8/10/2004	teleconference w/ D. Godkin re: case strategy and next steps	0.25	\$375	\$93.75	Kirkpatrick, Michael
8/10/2004	review research memoranda from Testa Hurwitz summer associates	1.5	\$375	\$562.50	Kirkpatrick, Michael
9/13/2004	meet w/ D. Godkin, discuss case strategy and next steps	1	\$375	\$375.00	Kirkpatrick, Michael
9/16/2004	edit draft MCAD complaint, conduct legal research on Mass. Public accommodations law	4.5	\$375	\$1,687.50	Kirkpatrick, Michael
9/17/2004	edit MCAD complaint, research MCAD statute, regulations, and decisions	2.5	\$375	\$937.50	Kirkpatrick, Michael
9/24/2004	revise and edit MCAD complaint, e-mail client	0.5	\$375	\$187.50	Kirkpatrick, Michael



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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
9/27/2004	e-mail exchange w/ client re: MCAD complaint	0.5	\$375	\$187.50	Kirkpatrick, Michael
9/27/2004	Review and edit draft complaint for MCAD	0.5	\$425	\$212.50	Wolfman, Brian
9/28/2004	edit MCAD complaint to incorporate B. Wolfman's suggestions, send draft to client	0.5	\$375	\$187.50	Kirkpatrick, Michael
10/1/2004	add client's edits to MCAD complaint, proofread, convert to pdf, send to cocounsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
10/5/2004	convert MCAD complaint and Form to pdf and e-mail to client w/ instructions re: review and signing	0.75	\$375	\$281.25	Kirkpatrick, Michael
12/2/2004	review file and prep for call w/ co-counsel (.25), teleconference w/ co-counsel to discuss prep for MCAD investigative conference on 1/12/05, settlement demand, and in-person mtg. w/ client (.25), e-mail client re: status of case (.25), calls and research re: settlement value (.75)	1.5	\$375	\$562.50	Kirkpatrick, Michael
12/3/2004	teleconference w/ client (.5), e-mail cocounsel to schedule in-person meeting with client and issues re: MCAD process (.25)	0.75	\$375	\$281.25	Kirkpatrick, Michael
12/23/2004	research FOIA/PA regulations and draft requests	4	\$375	\$1,500.00	Kirkpatrick, Michael
12/27/2004	travel to Boston to meet w/ client and co-counsel and return. Total time away from office = 13 hours. Meeting in Boston with co-counsel and client for 2.5 hours to discuss MCAD process, FOIA/PA requests, case strategy. Read MCAD finalize FOIA/PA requests, file electronically and by mail.	13	\$375	\$4,875.00	Kirkpatrick, Michael
12/29/2004	review AA's MCAD position statement (.5), teleconference w/ client and co-counsel to prep for investigative conference (.5), teleconference w/ Wayne Krause re: case strategy and settlement terms (.75)	3	\$375	\$1,125.00	Kirkpatrick, Michael
1/5/2005	teleconference w/ client re: MCAD investigative conference (.25), teleconference w/ Omar Guerrero at DOT re: enforcement action and related cases (.75)	1.75	\$375	\$656.25	Kirkpatrick, Michael
1/7/2005	teleconference w/ client re: MCAD investigative conference (.25), teleconference MCAD investigative conference by telephone	1	\$375	\$375.00	Kirkpatrick, Michael
1/12/2005	teleconference w/ client re: MCAD process and rebuttal to AA's position statement	0.5	\$375	\$187.50	Kirkpatrick, Michael
1/21/2005	draft release form for TSA Privacy Act request, review regulations	0.5	\$375	\$187.50	Kirkpatrick, Michael
1/24/2005	teleconference with co-counsel re: rebuttal to AA's MCAD position statement, removal for trial, representation agreement and terms	0.25	\$375	\$93.75	Kirkpatrick, Michael
1/29/2005	draft TSA privacy act release transmittal letter	0.75	\$375	\$281.25	Kirkpatrick, Michael
1/31/2005	send TSA privacy act release (.5), begin drafting MCAD rebuttal (4.5)	5	\$375	\$1,875.00	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
2/1/2005	finalize MCAD rebuttal (2), circulate to cocounsel and client, make revisions (1), send to MCAD (.5)	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
2/25/2005	teleconference with S. Walker, counsel for Abu-Hussein, re: case strategy and FOIA issue	0.5	\$375	\$187.50	Kirkpatrick, Michael
3/22/2005	phone call to DOT re: FOIA and PA requests (.25), e-mail to client re: status (1)	1.25	\$375	\$468.75	Kirkpatrick, Michael
4/19/2005	follow up calls to DOT re: outstanding FOIA and PA requests.	0.25	\$375	\$93.75	Kirkpatrick, Michael
5/9/2005	review MCAD probable cause finding	0.5	\$375	\$187.50	Kirkpatrick, Michael
5/12/2005	teleconference w/ co-counsel (.5), e-mail to client, teleconference with DOT re: FOIA request	1	\$375	\$375.00	Kirkpatrick, Michael
5/17/2005	teleconference w/ co-counsel and client re: status, settlement, litigation strategy going forward	0.5	\$375	\$187.50	Kirkpatrick, Michael
5/17/2005	teleconference w/ Omar Guerrero at DOT re: results of investigation, PA/FOIA requests, issues in related cases	1	\$375	\$375.00	Kirkpatrick, Michael
5/20/2005	teleconference w/ cocounsel re: lit expenses and rep a'mnt for court case (.25), teleconference w/ client re: same issues (.25)	0.5	\$375	\$187.50	Kirkpatrick, Michael
7/19/2005	teleconference w/ counsel for Abou Hussein (.5), begin drafting complaint for U.S. District Court (1)	1.5	\$375	\$562.50	Kirkpatrick, Michael
7/20/2005	research elements of causes of action and relief and continue drafting complaint	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
7/21/2005	research elements of causes of action and relief and continue to draft and edit complaint	4	\$375	\$1,500.00	Kirkpatrick, Michael
7/22/2005	continue research and edit draft complaint	2	\$375	\$750.00	Kirkpatrick, Michael
7/25/2005	edit draft complaint (2) and send to co-counsel, review local rules for D. of Mass. (2)	4	\$375	\$1,500.00	Kirkpatrick, Michael
7/29/2005	revise and edit complaint to incorporate suggestions of co-counsel, send new draft to co-counsel and client	1.25	\$375	\$468.75	Kirkpatrick, Michael
8/3/2005	draft pro hac vice certificate, send to co-counsel	1	\$375	\$375.00	Kirkpatrick, Michael
8/25/2005	teleconference w/ D. Godkin re: filing of complaint and various case-related issues	0.5	\$375	\$187.50	Kirkpatrick, Michael
8/26/2005	draft and send e-mail to client re: filing of complaint and expected next steps	0.5	\$375	\$187.50	Kirkpatrick, Michael
8/29/2005	draft amended complaint and agreement letter to opposing counsel, discuss case strategy with Javier Maldonado and Christy Lopez	3	\$375	\$1,125.00	Kirkpatrick, Michael
9/1/2005	review e-mail from opposing counsel, e-mail D. Godkin, edit draft amended complaint and send to D. Godkin	0.5	\$375	\$187.50	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
9/6/2005	e-mail and teleconference w/ co-counsel (.25), send e-mail to opposing counsel confirming agreements (.25)	0.5	\$375	\$187.50	Kirkpatrick, Michael
9/9/2005	proof-read amended complaint, convert to pdf and send courtesy copy to opposing counsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
9/13/2005	read info re: CM/ECF for D. Mass. and submit registration	0.5	\$375	\$187.50	Kirkpatrick, Michael
9/15/2005	review FRCP 4, 5 and 15 and LR 4.1, 5.2 and 15.1, re: service amended complaint, e-mail D. Godkin	0.5	\$375	\$187.50	Kirkpatrick, Michael
10/13/2005	meet w/ S. Walker and review case file in Abou-Hussein case with attention to discovery documents	1.5	\$375	\$562.50	Kirkpatrick, Michael
10/19/2005	teleconference w/ David Godkin re damages calculations and initial disclosures and certifications	0.3	\$375	\$112.50	Kirkpatrick, Michael
10/20/2005	review LR 16 and FRCP 26 and draft e-mail to client re gathering documents for settlement proposal and disclosures.	1.25	\$375	\$468.75	Kirkpatrick, Michael
11/22/2005	teleconference w/ D. Godkin (.25), e-mail re: tasks and schedule (.25), draft settlement proposal (2)	2.5	\$375	\$937.50	Kirkpatrick, Michael
11/28/2005	teleconference w/ client and co-counsel re: settlement proposal, initial disclosures, case budget, ADR, and related certifications	1	\$375	\$375.00	Kirkpatrick, Michael
12/2/2005	research elements of claims and damages to determine areas for discovery, review complaint and answer to identify contested fact issues, make notes re: potential issues for discovery	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
12/5/2005	continue research and begin drafting discovery requests	4	\$375	\$1,500.00	Kirkpatrick, Michael
12/6/2005	continue drafting discovery requests	4	\$375	\$1,500.00	Kirkpatrick, Michael
12/7/2005	draft interrogatories and review cases for elements/issues on which to seek discovery	4.75	\$375	\$1,781.25	Kirkpatrick, Michael
12/8/2005	continue drafting discovery and reviewing cases	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
12/16/2005	draft requests for production	1.5	\$375	\$562.50	Kirkpatrick, Michael
12/17/2005	draft requests for production (.75), edit R. 26 disclosures (.5)	1.25	\$375	\$468.75	Kirkpatrick, Michael
12/19/2005	edit R. 26 disclosures, send to co-counsel	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
12/20/2005	teleconference w/ E. Abate Recht re: R. 26 disclosure edits and scheduling issues	0.5	\$375	\$187.50	Kirkpatrick, Michael
12/22/2005	teleconference w/ client re: R.26 disclosures (.5), and e-mail co-counsel re: same and discovery (.25)	0.75	\$375	\$281.25	Kirkpatrick, Michael
1/9/2006	review final draft interrogatories and requests for production, e-mail co-counsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
1/20/2006	review discovery requests from AA, e-mail to client.	0.25	\$375	\$93.75	Kirkpatrick, Michael



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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
1/24/2006	discuss offer of judgment w/ client (20'), research re: offer of judgment and costs (40')	1	\$375	\$375.00	Kirkpatrick, Michael
1/31/2006	begin drafting answers to interrogatories, teleconference w/ client re: gathering responsive documents (30')	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
2/1/2006	draft answers to interrogatories	4	\$375	\$1,500.00	Kirkpatrick, Michael
2/2/2006	draft answers to interrogatories	6.75	\$375	\$2,531.25	Kirkpatrick, Michael
2/6/2006	finish first draft of interrogatory responses and send to client and co-counsel	4.75	\$375	\$1,781.25	Kirkpatrick, Michael
2/8/2006	edit interrogatory responses, finalize answers to interrogatories and send to client for verification (3.25), begin drafting written responses to document production (1.75).	5	\$375	\$1,875.00	Kirkpatrick, Michael
2/8/2006	Printed and reviewed client's financial records, provided summary to M. Kirkpatrick	2.5	\$120	\$300.00	Longo, Philip
2/9/2006	prepare written responses to requests for production	1.75	\$375	\$656.25	Kirkpatrick, Michael
2/10/2006	compile document index and review all documents in file	3.25	\$375	\$1,218.75	Kirkpatrick, Michael
2/14/2006	assemble and index documents for production	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
2/14/2006	Printing, copying and bates-stamping documents for production	3.5	\$120	\$420.00	Longo, Philip
2/20/2006	e-mails to client and co-counsel re: discovery	1	\$375	\$375.00	Kirkpatrick, Michael
2/21/2006	teleconference w/ client re: R.35 examination and deposition	0.5	\$375	\$187.50	Kirkpatrick, Michael
2/22/2006	research re: R.35 and attempt to schedule consult w/ Dr. Faulk	2	\$375	\$750.00	Kirkpatrick, Michael
2/23/2006	research re: R.35 and attempt to schedule consult w/ Dr. Faulk	2.25	\$375	\$843.75	Kirkpatrick, Michael
2/24/2006	teleconference w/ staff at Dr. Faulk's office	0.25	\$375	\$93.75	Kirkpatrick, Michael
2/24/2006	telephone consultation w/ Dr. Faulk re: proposed R.35 exam	0.25	\$375	\$93.75	Kirkpatrick, Michael
2/27/2006	e-mail to co-counsel re: consultation w/ Dr. Faulk	0.25	\$375	\$93.75	Kirkpatrick, Michael
3/2/2006	telephone conversation w/ Omar Guerrero at DOT re: FOIA/PA request and developments (.5), review Dasrath decision on summary judgment and Dasrath pleadings (1)	1.5	\$375	\$562.50	Kirkpatrick, Michael
3/7/2006	conversation w/ DOT staff re: FOIA and PA requests	1	\$375	\$375.00	Kirkpatrick, Michael
3/14/2006	edit draft R.35 motion (.75), respond to DOT e-mail re: FOIA processing (.5), begin reviewing discovery issues for meeting w/ co-counsel (1.25)	2.5	\$375	\$937.50	Kirkpatrick, Michael
3/15/2006	draft list of discovery and case-strategy issues and prepare outline of issues to discuss w/ co-counsel (3); teleconference w/ co-counsel re: discovery plan and division of tasks (1).	4	\$375	\$1,500.00	Kirkpatrick, Michael
3/16/2006	make travel arrangements for trip to Boston for client's deposition prep and deposition (1); begin drafting letter to opposing counsel re: discovery issues (3)	4	\$375	\$1,500.00	Kirkpatrick, Michael
3/17/2006	complete first draft of letter to opposing counsel re: discovery issues	4.5	\$375	\$1,687.50	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
3/20/2006	finalize and send discovery letter to defendant's counsel	0.75	\$375	\$281.25	Kirkpatrick, Michael
3/21/2006	respond to e-mail from opposing counsel re: depositions and discovery issues teleconference w/ C. Lopez re: SSI issues encountered in Chaudhry case and potential aviation security experts (.5), e-mail to client re costs (.25)	0.25	\$375	\$93.75	Kirkpatrick, Michael
3/22/2006	review deposition outlines for 3/28 Flight attendant depositions, send notes and suggestions to co-counsel	0.75	\$375	\$281.25	Kirkpatrick, Michael
3/24/2006	teleconference w/ co-counsel re: impressions from flight attendant depositions	2	\$375	\$750.00	Kirkpatrick, Michael
3/29/2006	(.5), review draft transcripts (1) teleconference w/ client for deposition prep (.5), assemble documents to take to Boston, download directions to law offices, prep for trip (1.5)	1.5	\$375	\$562.50	Kirkpatrick, Michael
3/31/2006	travel to Boston to prepare client for deposition and to defend client's deposition meet w/ client and co-counsel for deposition prep and to discuss case matters including R.35 exam	2	\$375	\$750.00	Kirkpatrick, Michael
4/2/2006	defend deposition of client (6 hours), discuss deposition with co-counsel (.5), travel back from Boston (5)	4	\$375	\$1,500.00	Kirkpatrick, Michael
4/3/2006	teleconference w/ client (.5), teleconference w/ Jason McGill (.25), review discovery issues and e-mail opposing counsel (.5), send notes to co-counsel re: deposition prep and discovery issues (.5)	3	\$375	\$1,125.00	Kirkpatrick, Michael
4/4/2006	review co-counsel's deposition outlines for Ball, Flores and Traer. Draft and send comments/suggestions to co-counsel	1.75	\$375	\$656.25	Kirkpatrick, Michael
4/9/2006	teleconference w/ co-counsel re: prep for depositions	2.75	\$375	\$1,031.25	Kirkpatrick, Michael
4/10/2006	review rough draft transcripts of 4/12 depositions	0.25	\$375	\$93.75	Kirkpatrick, Michael
4/12/2006	send proposed deposition dates to opposing counsel (.25), review Cerqueira deposition transcript and designate portions confidential per protective order (4), draft and send letter to opposing counsel with designations (.5)	0.75	\$375	\$281.25	Kirkpatrick, Michael
4/27/2006	review draft transcript of Ehlers deposition, review Dr. Kelly's report of R.35 examination	4.75	\$375	\$1,781.25	Kirkpatrick, Michael
4/28/2006	Send client a bill for April expenses (.25), review deposition transcript and send draft errata sheet to client with instructions (1.75), make travel plans for depositions of Cobbs and Marquis, and contact opposing counsel re: deposition dates. (.25)	1.5	\$375	\$562.50	Kirkpatrick, Michael
5/3/2006	schedule depositions of Cobbs and Marquis, make travel arrangements, draft and send deposition notices, contact court reporter	2.25	\$375	\$843.75	Kirkpatrick, Michael
5/15/2006	review and summarize Walling deposition	3	\$375	\$1,125.00	Kirkpatrick, Michael
5/17/2006		3	\$375	\$1,125.00	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
5/18/2006	review and summarize Sargent deposition	2.5	\$375	\$937.50	Kirkpatrick, Michael
5/19/2006	edit errata sheet to Cerqueira deposition and send to client (1); review and summarize Milenkovic deposition	1.5	\$375	\$562.50	Kirkpatrick, Michael
5/22/2006	review and summarize Ball deposition	2	\$375	\$750.00	Kirkpatrick, Michael
5/23/2006	review and summarize Flores deposition (1.25); teleconference with D. Godkin re: discovery plan and other issues, followed by teleconference w/ D. Godkin and client re: status of case, expenses, plan for moving forward (2.25); review scheduling order and R. 26 re: expert deadlines/treating physicians (.75)	4.25	\$375	\$1,593.75	Kirkpatrick, Michael
5/26/2006	begin to review and summarize Ehlers deposition	1	\$375	\$375.00	Kirkpatrick, Michael
5/30/2006	review and summarize Ehlers deposition	3	\$375	\$1,125.00	Kirkpatrick, Michael
5/31/2006	complete summary of Ehlers deposition	1	\$375	\$375.00	Kirkpatrick, Michael
6/7/2006	research on Doug Laird's background and publications (2.75); teleconference w/ Doug Laird (.75), teleconference w/ D. Godkin (.25), draft and send e-mail message to client (.25)	4	\$375	\$1,500.00	Kirkpatrick, Michael
6/8/2006	teleconference w/ client re: hiring aviation security expert	0.5	\$375	\$187.50	Kirkpatrick, Michael
6/9/2006	teleconference w/ Doug Laird, review retainer and forward to co-counsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
6/12/2006	review protective order, review local rules for expert designation and report deadlines, review all case documents and update document index	6	\$375	\$2,250.00	Kirkpatrick, Michael
6/13/2006	begin pulling and copying documents to send Doug Laird to review, prepare outline for Cobbs deposition	7	\$375	\$2,625.00	Kirkpatrick, Michael
6/14/2006	continue prep for Cobbs and Marquis depositions	4	\$375	\$1,500.00	Kirkpatrick, Michael
6/15/2006	travel to D/FW (5 hours), depositions of Cobbs and Marquis (4 hours)	9	\$375	\$3,375.00	Kirkpatrick, Michael
6/16/2006	travel back from D/FW	5	\$375	\$1,875.00	Kirkpatrick, Michael
6/19/2006	finalize retainer agreement with D. Laird, send materials with detailed cover letter indexing documents	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
6/20/2006	Research for memo on the effect of judicial admissions	4	\$120	\$480.00	Becker, David
6/20/2006	review file and draft list of issues to discuss w/ co-counsel, including discovery issues and plan for division of tasks moving forward	4	\$375	\$1,500.00	Kirkpatrick, Michael
6/21/2006	Writing memo on the effect of judicial admissions	3.5	\$120	\$420.00	Becker, David
6/21/2006	teleconference w/ co-counsel (.75), draft and send letter re: discovery issues (2.75)	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
6/22/2006	Researching case law on Defendant's burden of production for summary judgment brief	8	\$120	\$960.00	Becker, David
6/22/2006	discuss expert report w/ Doug Laird	0.75	\$375	\$281.25	Kirkpatrick, Michael
6/23/2006	Researching case law on Defendant's burden of production for S.J. brief	4	\$120	\$480.00	Becker, David



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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
6/23/2006	review report and discuss w/ Doug Laird	2	\$375	\$750.00	Kirkpatrick, Michael
6/26/2006	Researching case law on Defendant's burden of production for SJ brief	8	\$120	\$960.00	Becker, David
6/26/2006	draft R. 26 disclosure and serve expert report of D. Laird	0.75	\$375	\$281.25	Kirkpatrick, Michael
6/27/2006	Researching case law on Defendant's burden of production for SJ brief	5	\$120	\$600.00	Becker, David
6/28/2006	Writing part of SJ brief regarding how Defendants fail their burden of production	8	\$120	\$960.00	Becker, David
6/29/2006	Writing part of SJ brief regarding how Defendants fail their burden of production	2	\$120	\$240.00	Becker, David
7/3/2006	draft response to Mariani letter of 6/27	1.5	\$375	\$562.50	Kirkpatrick, Michael
7/5/2006	send response to Mariani letter of 6/27	0.25	\$375	\$93.75	Kirkpatrick, Michael
7/10/2006	review draft of Trooper Sullivan affidavit and suggest edits to co-counsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
7/11/2006	teleconference w/ client (.25), teleconference w/ S. Walker re: mediation (.25), review of draft summary exhibit and e-mail to client (.5)	1	\$375	\$375.00	Kirkpatrick, Michael
7/12/2006	begin to draft statement of facts in support of motion for partial summary judgment	2.25	\$375	\$843.75	Kirkpatrick, Michael
7/13/2006	continue drafting facts to support summary judgment, including review of all deposition transcripts and review of all discovery responses and documents	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
7/14/2006	continue review of materials and drafting facts to support summary judgment motion	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
7/17/2006	continue drafting and edits to facts in support of partial sj	3	\$375	\$1,125.00	Kirkpatrick, Michael
7/20/2006	review letter from opposing counsel re: discovery and Laird deposition, call Doug Laird re: available dates, draft and send letter re: Laird deposition expenses and scheduling.	1.5	\$375	\$562.50	Kirkpatrick, Michael
7/21/2006	Arrangements for Laird deposition and postponement (.75); continue to review all transcripts and documents in file for facts in support of partial summary judgment motion (5)	5.75	\$375	\$2,156.25	Kirkpatrick, Michael
7/23/2006	review Cerqueira deposition transcript for SJ facts	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
7/24/2006	teleconference w/ client (.5), continue draft/edit facts for SJ	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
7/25/2006	serve supplemental documents and pull complete set of discovery documents to send client	1	\$375	\$375.00	Kirkpatrick, Michael
8/8/2006	discuss mediation and case status w/ co-counsel	0.5	\$375	\$187.50	Kirkpatrick, Michael
8/11/2006	teleconference w/ client to discuss status, mediation, and case strategy	0.75	\$375	\$281.25	Kirkpatrick, Michael
	review AA's summary judgment motion and supporting documents, teleconference w/ D. Godkin re: AA's violation of protective order (.25), calls and e-mail with opposing counsel re: sealing exhibits in conformance w/ protective order	2	\$375	\$750.00	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
8/28/2006	review AA's statement of undisputed facts and begin drafting response	4	\$375	\$1,500.00	Kirkpatrick, Michael
9/5/2006	draft response to AA's statement of facts	4.5	\$375	\$1,687.50	Kirkpatrick, Michael
9/6/2006	respond to AA's statement of facts (1.5), draft Cerqueira's statement of facts in support of SJ (7)	8.5	\$375	\$3,187.50	Kirkpatrick, Michael
9/7/2006	edit response to AA facts and Plaintiff's statement of facts	4.25	\$375	\$1,593.75	Kirkpatrick, Michael
9/8/2006	edit response to AA facts and Plaintiff's facts	4	\$375	\$1,500.00	Kirkpatrick, Michael
9/9/2006	finish response to AA facts and plaintiff's statement of facts and send to co-counsel (1), begin drafting memo in support of partial summary judgment (5)	6	\$375	\$2,250.00	Kirkpatrick, Michael
9/10/2006	continue drafting memo in support of motion for partial summary judgment, including review of case law and research memo prepared by D. Becker	4	\$375	\$1,500.00	Kirkpatrick, Michael
9/11/2006	continue drafting memo in support of SJ (3), discuss w/ co-counsel (.25)	3.25	\$375	\$1,218.75	Kirkpatrick, Michael
9/18/2006	draft and edit mediation statement (3), work on SJ brief (2)	5	\$375	\$1,875.00	Kirkpatrick, Michael
9/19/2006	draft and edit SJ brief, discuss Southwest Airlines case with E. Moreno	7	\$375	\$2,625.00	Kirkpatrick, Michael
9/20/2006	Complete draft of summary judgment brief and related documents, teleconference with cocounsel (.25), teleconference with client (.5)	10	\$375	\$3,750.00	Kirkpatrick, Michael
9/21/2006	finalize and proof all SJ materials	9	\$375	\$3,375.00	Kirkpatrick, Michael
9/21/2006	Read and edit MK's draft partial summary judgment brief	0.4	\$425	\$170.00	Wolfman, Brian
9/22/2006	make final edits to all SJ docs, review mediation statement, file SJ materials	4	\$375	\$1,500.00	Kirkpatrick, Michael
9/26/2006	travel to Boston for mediation	4	\$375	\$1,500.00	Kirkpatrick, Michael
9/27/2006	meet with client and co-counsel re: mediation (1.5 before 1 after), mediation (6), travel back from Boston (3.5)	12	\$375	\$4,500.00	Kirkpatrick, Michael
9/29/2006	draft settlement letter re policy changes	2	\$375	\$750.00	Kirkpatrick, Michael
10/2/2006	research case law and begin drafting opposition to AA's motion for SJ	7	\$375	\$2,625.00	Kirkpatrick, Michael
10/3/2006	review Beardslee report, review FRCP and LR and draft motion to strike and memo in support, confer w/ co-counsel	4	\$375	\$1,500.00	Kirkpatrick, Michael
10/4/2006	finalize and file motion to strike and memo in support	1	\$375	\$375.00	Kirkpatrick, Michael
10/5/2006	continue research and drafting of opposition to AA's motion for SJ	6	\$375	\$2,250.00	Kirkpatrick, Michael
10/9/2006	travel to Reno (11), meet w/ Doug Laird to prep for deposition (2)	13	\$375	\$4,875.00	Kirkpatrick, Michael
10/10/2006	attend Laird deposition (4), travel back from Reno (9)	13	\$375	\$4,875.00	Kirkpatrick, Michael
10/11/2006	continue travel back from Reno (5)	5	\$375	\$1,875.00	Kirkpatrick, Michael
10/12/2006	continue to research and draft opposition to AA SJ motion	6.5	\$375	\$2,437.50	Kirkpatrick, Michael
10/12/2006	read preemption section of AA's motion for summary judgment (.1), confer w/ M. Kirkpatrick re: preemption issue (.2), legal research on ADA preemption (2.0), draft memo to M. Kirkpatrick re: arguments on ADA preemption (.5)	2.8	\$375	\$1,050.00	Zieve, Allison



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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
10/13/2006	continue research and draft opp to AA SJ	8	\$375	\$3,000.00	Kirkpatrick, Michael
10/14/2006	continue research and draft opp to AA SJ	3.75	\$375	\$1,406.25	Kirkpatrick, Michael
10/15/2006	continue research and draft opp to AA SJ	2	\$375	\$750.00	Kirkpatrick, Michael
10/16/2006	continue research and draft opp to AA SJ	5.75	\$375	\$2,156.25	Kirkpatrick, Michael
10/17/2006	finish research and drafting of opposition to AA's motion for summary judgment, finalize and proof, edit draft response to AA's statement of facts	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
10/27/2006	review AA's opposition fact statement and begin drafting response	3.5	\$375	\$1,312.50	Kirkpatrick, Michael
10/30/2006	draft reply brief re" partial summary judgment (7.5), teleconference w/ co-counsel (.25)	7.75	\$375	\$2,906.25	Kirkpatrick, Michael
10/31/2006	continue research and drafting of reply brief (6.5), teleconference w/ co-counsel (.25)	6.75	\$375	\$2,531.25	Kirkpatrick, Michael
10/31/2006	Read and edit draft reply brief in support of plaintiff's motion for summary judgment (.3) and talk to MK regarding some changes (.2)	0.5	\$425	\$212.50	Wolfman, Brian
11/1/2006	Finish draft of response to AA opposition facts (3.25), teleconference with client (.5), edit reply brief on partial SJ (3.75)	7.5	\$375	\$2,812.50	Kirkpatrick, Michael
11/2/2006	review discovery documents and begin drafting R. 26(a)(3) disclosures	3	\$375	\$1,125.00	Kirkpatrick, Michael
11/3/2006	draft exhibit designations (4) and edit and file R. 26(a)(3) disclosures (1.5)	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
11/7/2006	review AA disclosures, begin drafting motions in limine (MIL)	3	\$375	\$1,125.00	Kirkpatrick, Michael
11/10/2006	draft MIL (4), edit letter re: objections (1)	5	\$375	\$1,875.00	Kirkpatrick, Michael
11/13/2006	prep for summary judgment hearing by reviewing pleadings and case law, outline of issues for oral argument	7	\$375	\$2,625.00	Kirkpatrick, Michael
11/14/2006	prep for SJ hearing (2.5), prep for and have LR 16.5 conference (2), draft MIL (3.5)	8	\$375	\$3,000.00	Kirkpatrick, Michael
11/15/2006	complete drafts of MIL (3), gather materials re: SJ to review for hearing (1)	4	\$375	\$1,500.00	Kirkpatrick, Michael
11/16/2006	travel to Boston and back for SJ hearing. Review SJ materials and cases to prep for hearing. Attend hearing. Confer with co-counsel re: prep of pretrial materials, teleconference w/ client re: report of SJ hearing and discussion of settlement offer.	12	\$375	\$4,500.00	Kirkpatrick, Michael
11/17/2006	Final prep of MIL including scanning of exhibits (4), file MIL (.75)	4.75	\$375	\$1,781.25	Kirkpatrick, Michael
11/18/2006	review issues and draft response (.75), work on summary of evidence section of pretrial memo (1.25)	2	\$375	\$750.00	Kirkpatrick, Michael
11/19/2006	work on draft of pretrial memo	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
11/20/2006	complete first draft of pretrial memo	7	\$375	\$2,625.00	Kirkpatrick, Michael
11/27/2006	make defendant's changes to draft pretrial memo, add plaintiff's response to defendant's exhibit objections, proofread, circulate, and file	4	\$375	\$1,500.00	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
11/28/2006	teleconference w/ co-counsel re: opposition to motion in limine re: consent order and DOT docs, e-mails to client re: schedule	0.5	\$375	\$187.50	Kirkpatrick, Michael
12/3/2006	review plaintiff's motions in limine and AA's responses (1 hour); review AA's motions in limine and our draft responses and send suggested edits to co-counsel (2)	3	\$375	\$1,125.00	Kirkpatrick, Michael
12/4/2006	draft list of trial prep tasks for discussion w/ co-counsel (1), download oppositions to motions in limine (.5)	1.5	\$375	\$562.50	Kirkpatrick, Michael
12/5/2006	confer w/ co-counsel re: pretrial and division of trial tasks (1), contact opposing counsel re: confer and supplement pretrial to conform to procedural order (.5)	1.5	\$375	\$562.50	Kirkpatrick, Michael
12/7/2006	confer w/ client and co-counsel re: settlement posture and pretrial issues	0.75	\$375	\$281.25	Kirkpatrick, Michael
12/7/2006	draft notice and supplement re pretrial memorandum, put exhibits in probable order of use, add purpose to witness lists	2	\$375	\$750.00	Kirkpatrick, Michael
12/8/2006	send marked trial exhibits to opposing counsel, finalize and send draft notice and supplement to opposing counsel, prep for conference on 12/11	2	\$375	\$750.00	Kirkpatrick, Michael
12/11/2006	teleconference w/ opposing counsel re: settlement and notice and supplement, then file notice and supplement (.5), assemble materials for pretrial conference (1.5)	2	\$375	\$750.00	Kirkpatrick, Michael
12/12/2006	travel to Boston and back for pretrial conference, review all motions in limine and responses, review deposition transcripts to determine which AA witnesses plaintiff will call in case in chief	14	\$375	\$5,250.00	Kirkpatrick, Michael
12/14/2006	telephone conference w/ client to discuss pretrial conference issues and trial prep	0.5	\$375	\$187.50	Kirkpatrick, Michael
12/15/2006	discuss w/ Adina Rosenbaum research for trial brief re: theories for showing reckless indifference for punitive damages	0.75	\$375	\$281.25	Kirkpatrick, Michael
12/17/2006	download AA's motion for reconsideration (Doc. 74) and review, read cases and statute cited therein, research standard for reconsideration, draft response in opposition and send to co-counsel	3	\$375	\$1,125.00	Kirkpatrick, Michael
12/19/2006	draft direct exam outline for Cerqueira (1.25), review trial exhibits to determine which to use in Cerqueira direct (1.75)	3	\$375	\$1,125.00	Kirkpatrick, Michael
12/20/2006	researched punitive damages standards	2.5	\$245	\$612.50	Rosenbaum, Adina
	e-mail opposing counsel re: witness availability (.5), re-order pages of Tr. Exh. L and send to opposing counsel and cocounsel (.5), review Blumenthal and Faulk deposition transcripts w/ Judge's rulings on admissibility (.75), review outline of				
12/21/2006	Laird direct (.5)	2.25	\$375	\$843.75	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
12/21/2006	edit outline of Cerqueira direct exam, review all exhibits, determine use of each and redactions to request, send e-mail message to co-counsel re: trial prep issues and division of tasks (2); begin drafting outline of Ehlers direct (1.75)	3.75	\$375	\$1,406.25	Kirkpatrick, Michael
12/21/2006	continued researching punitive damages standards	2.3	\$245	\$563.50	Rosenbaum, Adina
12/22/2006	prep Laird for direct exam, discuss strategy for using Laird w/ co-counsel	2	\$375	\$750.00	Kirkpatrick, Michael
12/23/2006	prep questions for Ehlers direct and review Ehlers deposition, add deposition cites to direct exam outline	4	\$375	\$1,500.00	Kirkpatrick, Michael
12/24/2006	draft Marquis direct exam and review Marquis depo transcript (2.25), review and edit Ehlers direct and check depo cites (1)	3.25	\$375	\$1,218.75	Kirkpatrick, Michael
12/26/2006	revise direct exam outline for Cerqueira (1), draft trial plan w/ sequence for case-in-chief (1.5), prep Cerqueira direct exam w/ client by telephone (1.75), send trial plan and draft directs of Ehlers and Marquis to co-counsel (.5), begin drafting trial brief (2)	6.75	\$375	\$2,531.25	Kirkpatrick, Michael
12/27/2006	review draft jury instructions and send comments to co-counsel (1.5), review draft opening statement and make edits (.5), work on punitive damages section of trial brief and jury instructions, including read cases identified by A. Rosenbaum (3.5)	5.5	\$375	\$2,062.50	Kirkpatrick, Michael
12/28/2006	redact trial exhibits and give copying instructions (1), finish punitive damages section of trial brief (1.25), research and draft injunctive relief section (.75), print and review AA pretrial submissions (1.5), finish trial brief including section on 44902 (3.5)	8	\$375	\$3,000.00	Kirkpatrick, Michael
12/29/2006	review and edit all pretrial submissions and file trial brief (3), make calls and arrangements re: change in trial schedule (1.5)	4.5	\$375	\$1,687.50	Kirkpatrick, Michael
12/30/2006	review entire file and select documents to take to Boston (6), teleconference w/ client (.5)	6.5	\$375	\$2,437.50	Kirkpatrick, Michael
1/1/2007	Travel to Boston (4), review PTO (.75), edit Cerqueira direct (1), review proposed jury instructions (.75), study decision in Dasrath (1.5)	8	\$375	\$3,000.00	Kirkpatrick, Michael
1/2/2007	review trial plan w/ co-counsel and make decisions about presentation of evidence (2), edit Cerqueira direct, review with client, make changes to outline (3.5), review Blumenthal and Faulk video depo testimony (1.5)	7	\$375	\$2,625.00	Kirkpatrick, Michael
1/3/2007	In courtroom for first trial day (5), return to court re: juror issue (.75), travel back to DC (4)	9.75	\$375	\$3,656.25	Kirkpatrick, Michael
1/4/2007	review trial plan, edit, and suggest division and order of remaining witnesses, review Cerqueira direct for trial day two, teleconference with client (.75)	4.75	\$375	\$1,781.25	Kirkpatrick, Michael

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DATE	DESCRIPTION	HOURS	RATE	TOTAL	LAWYER
1/5/2007	review outline of Ehlers hostile direct and send to comments to co-counsel (.5); review transcripts of trial day one, edit Cerqueira direct for day two, send to co-counsel (1.75)	2.25	\$375	\$843.75	Kirkpatrick, Michael
1/5/2007	review Walling cross outline and comment (.5); review and edit Marquis hostile direct outline and send to co-counsel (.75); review draft of Sargent direct and cross & comment (.25); draft Flores hostile direct & send to co-counsel (1); draft Ball cross (.75)	3.25	\$375	\$1,218.75	Kirkpatrick, Michael
1/7/2007	travel to Boston (4); review Cerqueira deposition transcript to prep for cross (1), meet w/ client to prep for cross (2); continue to prep outlines for hostile directs (3)	10	\$375	\$3,750.00	Kirkpatrick, Michael
1/8/2007	review outlines for trial day 2 (1); trial day 2 (5); prep for trial day 3 (5.5) by editing trial plan and preparing cross outlines and reviewing deposition transcripts	11.5	\$375	\$4,312.50	Kirkpatrick, Michael
1/9/2007	review outlines for trial day 3 (1); trial day 3 held (5); prep outlines for trial day 4 cross exams including review of deposition transcripts (4.5)	10.5	\$375	\$3,937.50	Kirkpatrick, Michael
1/10/2007	review outlines for day 4 cross exams (1); trial day 4 (5); prep closing argument (5.5)	11.5	\$375	\$4,312.50	Kirkpatrick, Michael
1/11/2007	review and edit closing argument (1); trial day 5 and wait during jury deliberations (8)	9	\$375	\$3,375.00	Kirkpatrick, Michael
1/12/2007	wait at courthouse during jury deliberations (7)	7	\$375	\$2,625.00	Kirkpatrick, Michael
1/13/2007	travel back from Boston (4)	4	\$375	\$1,500.00	Kirkpatrick, Michael

Total hours: 860.05

Total amount:

\$309,597.25



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	HOURS	RATE	AMOUNT
Becker, David	42.5	\$120	\$5,100.00
Kirkpatrick, Michael	802.55	\$375	\$300,956.25
Longo, Philip	6	\$120	\$720.00
Rosenbaum, Adina	4.8	\$245	\$1,176.00
Wolfman, Brian	1.4	\$425	\$595.00
Zieve, Allison	2.8	\$375	\$1,050.00
<b>Totals</b>	<b>860.05</b>		<b>\$309,597.25</b>

**Exhibit 2**

Brian Wolfman: professional background

☒ CLOSE WINDOW**Brian Wolfman, Director**

Brian Wolfman is the Director of Public Citizen Litigation Group, where he has worked since 1990. Mr. Wolfman's litigation includes cases involving consumer health and safety regulation, freedom of information, expanding access to the courts, opposing federal preemption of state products liability law, consumer law, and class actions. In the preemption area, he has been lead counsel in a range of cases involving injuries from radiation exposure, prescription drugs, pesticides, and medical devices, including *Medtronic, Inc., v. Lohr*, 518 U.S. 470 (1996). Regarding access to the courts, he has concentrated on litigation regarding court-awarded attorney's fees, including acting as lead counsel in three U.S. Supreme Court cases involving the Equal Access to Justice Act, the principal statute authorizing fee shifting against federal agencies. *Scarborough v. Principi*, 541 U.S. 401 (2004); *Shalala v. Schaefer*, 509 U.S. 292 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89 (1991).

With respect to class actions, Mr. Wolfman's practice includes representing class plaintiffs. In recent years, however, his class action work has focused on settlement objections. Mr. Wolfman has briefed and argued objections to class action settlements on behalf of absent class members, consumer safety organizations, and labor unions in the Amchem asbestos settlement, the General Motors coupon cases, the *Bowling v. Pfizer* heart valve settlement, the AcroMed bone-screw case, and the Community Bank and Delta Funding predatory lending settlements, among others. He has written articles on class actions, has testified before Congress regarding the so-called Class Action Fairness Act (and its predecessors) and before the federal Civil Rules Advisory Committee on proposed changes to Rule 23. He is also an advisor to the American Law Institute's project on the Principles of the Law of Aggregate Litigation.

Mr. Wolfman has argued four cases before the Supreme Court (winning three of them), been lead counsel in about a dozen others, and, as co-counsel to his Litigation Group colleagues and others, had substantial involvement in several dozen more. He co-directs the Litigation Group's Alan Morrison Supreme Court Assistance Project with the Project's Fellow. He has been lead counsel in many federal court and state court appeals.

Mr. Wolfman currently teaches a course on appellate courts at Harvard Law School and at American University Law School and has previously taught similar courses at Stanford Law School and Georgetown University Law Center.

Before joining the Litigation Group in 1990, Mr. Wolfman was a staff attorney at Legal Services of Arkansas, where he did trial and appellate work in cases involving housing law, welfare law, family law, employment rights, and consumer protection. Before that, Mr. Wolfman clerked for the Honorable R. Lanier Anderson III of the U.S. Court of Appeals for the Eleventh Circuit. He is a graduate of the University of Pennsylvania and Harvard Law School.

Mr. Wolfman's c.v. can be found here.

**Exhibit 3**

Allison Zieve: professional background



☒ CLOSE WINDOW

### Allison Zieve

Allison Zieve received her A.B. magna cum laude from Brown University in 1986, and was a member of Phi Beta Kappa. She was graduated from Yale Law School in 1989.

After law school, Ms. Zieve practiced for several years in California. She worked first at Irell & Manella, a large Los Angeles law firm, and then at Rosen Bien & Asaro, a small San Francisco public interest firm where the practice focused on prison reform and employment litigation. She moved to Washington, DC in early 1994. After working on voting rights litigation at the NAACP Legal Defense and Education Fund, Inc., she joined Public Citizen Litigation Group that August.

At the Litigation Group, Ms. Zieve's practice areas include public health (such drug safety and food labeling issues), consumer safety (such as automobile standards), open government, federal preemption, class action abuse, and first amendment issues (in the context of federal regulation and of the Internet). Many of her cases involve issues related to the Food, Drug, and Cosmetic Act and to regulation by the Food and Drug Administration. She has also litigated against the National Highway Traffic Safety Administration, the Department of Justice, and the Department of Health and Human Services, among other agencies. Among the cases litigated by Ms. Zieve are *Will v. Hallock*, 126 U.S. 952 (2006) (successful representation in case under Federal Tort Claims Act), *Public Citizen v. Mineta*, 340 F.3d 39 (2d Cir. 2003) (successful challenge under the Administrative Procedure Act to NHTSA regulation), *Dusenbery v. United States*, 534 U.S. 161 (2002) (unsuccessful due process challenge to notice of forfeiture), *Center for Auto Safety v. NHTSA*, 244 F.3d 144 (D.C. Cir. 2001) (mixed result in Freedom of Information Act case), and *Goodlin v. Medtronic*, 167 F.3d 1367 (11th Cir. 1999) (successful appeal of holding that medical device laws preempt injured patient's personal injury claims).

Ms. Zieve has published several articles on preemption of state-law damages actions as well as other topics. From time to time, she teaches appellate advocacy as an adjunct professor at the American University's Washington College of Law.

Ms. Zieve is admitted to the District of Columbia Bar and is admitted to practice before numerous federal courts.

**Exhibit 4**

Adina Rosenbaum: professional background

 CLOSE WINDOW**Adina H. Rosenbaum**

Adina H. Rosenbaum is an attorney at the Public Citizen Litigation Group, in Washington, D.C., where she has practiced since September 2004. Ms. Rosenbaum received her undergraduate degree from Harvard University, graduating *magna cum laude* in 1998 and earning membership in Phi Beta Kappa. In 2003, she graduated from the New York University School of Law, where she was a member of the Order of the Coif and an editor of the New York University Law Review. Following law school, Ms. Rosenbaum clerked for the Honorable Martha Craig Daughtrey of the United States Court of Appeals for the Sixth Circuit.

Ms. Rosenbaum's practice areas at the litigation group include general appellate litigation, open government, consumer safety, and first amendment issues. Many of her cases involve access to records under the Freedom of Information Act. She also serves as the director of the Freedom of Information Clearinghouse.

Ms. Rosenbaum is admitted to the District of Columbia bar, is an (inactive) member of the Massachusetts bar, and is admitted to practice before numerous federal courts.

**Exhibit 5**

*Laffey* matrix



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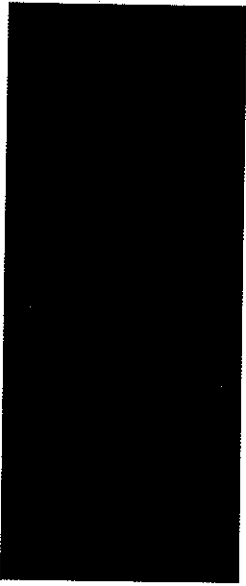
## LAFFEY MATRIX 2003- 2007

Experience	03-04	04-05	05-06	06-07
20+ years	380	390	405	425
11-19 years	335	345	360	375
8-10 years	270	280	290	305
4-7 years	220	225	235	245
1-3 years	180	185	195	205
Paralegals & Law Clerks	105	110	115	120

Years (Rate for June 1 - May 31, based on prior year's CPI-U)

## Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia. The matrix is intended to be used in cases in which a "fee-shifting" statute permits the prevailing party to recover "reasonable" attorney's fees. See, e.g., 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412 (b) (Equal Access to Justice Act). The matrix does not apply in cases in which the hourly rate is limited by statute. See 28 U.S.C. § 2412(d).
2. This matrix is based on the hourly rates allowed by the District Court in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is commonly referred to by attorneys and federal judges in the District of Columbia as the "Laffey Matrix" or the "United States Attorney's Office Matrix." The column headed "Experience" refers to the years following the attorney's graduation from law school. The various "brackets" are intended to correspond to "junior associates" (1-3 years after law school graduation), "senior associates" (4-7 years), "experienced federal court litigators" (8-10 and 11-19 years), and "very experienced federal court litigators" (20 years or more). See *Laffey*, 572 F. Supp. at 371.
3. The hourly rates approved by the District Court in *Laffey* were for work done principally in 1981-82. The Matrix begins with those rates. See *Laffey*, 572 F. Supp. at 371 (attorney rates) & 386 n.74 (paralegal and law clerk rate). The rates for subsequent yearly periods were determined by adding the change in the cost of living for the Washington, D.C. area to the applicable rate for the prior year, and then rounding to the nearest multiple of \$5 (up if within \$3 of the next multiple of \$5). The result is subject to adjustment if appropriate to ensure that the relationship between the highest rate and the lower rates remains reasonably constant. Changes in the cost of living are measured by the Consumer Price Index for All Urban Consumers (CPI-U) for Washington-Baltimore, DC-MD-VA-WV, as announced by the Bureau of Labor Statistics for May of each year.
4. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the United States Attorney's Office as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. See *Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n.



14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Lower federal courts in the District of Columbia have used this updated *Laffey* Matrix when determining whether fee awards under fee-shifting statutes are reasonable. See, e.g., *Blackman v. District of Columbia*, 59 F. Supp. 2d 37, 43 (D.D.C. 1999); *Jefferson v. Milvets System Technology, Inc.*, 986 F. Supp. 6, 11 (D.D.C. 1997); *Ralph Hoar & Associates v. Nat'l Highway Transportation Safety Admin.*, 985 F. Supp. 1, 9-10 n.3 (D.D.C. 1997); *Martini v. Fed. Nat'l Mtg Ass'n*, 977 F. Supp. 482, 485 n.2 (D.D.C. 1997); *Park v. Howard University*, 881 F. Supp. 653, 654 (D.D.C. 1995).

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